

Message Text

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DRAFTED BY EB/IFD/BP:TASCHLENKER:VJW

APPROVED BY EB/IFD/BP:HJWINTER

L/EB - JCROOK

EA/J - DFSMITH

JUSTICE - DROSENTHAL (SUBS)

FTC - WGRIMES (SUBS)

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO

INFO USMISSION GENEVA

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E.O 11652: N/A

TAGS: EGEN, JA

SUBJECT: ANTITRUST COOPERATION AGREEMENT

GENEVA FOR DAVIDOW, FISCHBACH AND BENSON

REF: STATE 271652

1. JAPANESE EMBASSY OFFICIALS IKEDA AND NANAO CALLED ON COUNTRY DESK OFFICER AND EB ANTITRUST LIAISON OFFICER DECEMBER 2 TO ELICIT DEPARTMENT STANCE RE POSSIBLE US-JAPANESE ANTITRUST COOPERATION BILATERAL. IKEDA RELATED THAT PRELIMINARY DRAFT AGREEMENT HAD BEEN SENT BY JUSTICE TO JAPANESE FAIR TRADE COMMISSION IN LATE 1975 AND THAT COPY OF US-FRG BILATERAL, TOGETHER WITH A LETTER FROM JUSTICE REQUESTING PRELIMINARY VIEWS ON SUCH AN AGREEMENT WITH JAPAN, HAD BEEN SENT IN SEPTEMBER 1976.

2. IN VIEW OF THESE APPROACHES IKEDA INDICATED THAT
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NEGOTIATIONS ON SUCH AN AGREEMENT, EVEN AT A PRELIMINARY

STAGE, SHOULD BE PUT IN PROPER DIPLOMATIC CHANNELS. HE QUERIED IF JUSTICE HAD AUTHORITY TO NEGOTIATE FOREIGN AGREEMENTS.

3. IT WAS EXPLAINED THAT DEPARTMENT HAD BEEN INVOLVED IN

MOST STAGES OF US-FRG BILATERAL NEGOTIATIONS AND ITS APPROVAL AND COMPLETION OF DEPARTMENT'S CIRCULAR 175. PROCEDURE IS NECESSARY FOR OTHER USG EXECUTIVE AGENCIES TO NEGOTIATE AND SIGN AGREEMENTS WITH FOREIGN GOVERNMENTS. COPY OF US-FRG BILATERAL HAD BEEN SENT TO JAPANESE FAIR TRADE COMMISSIONER, AS WELL AS OTHER OECD MEMBER STATES, AFTER DISCUSSION OF THIS UNIQUE AGREEMENT IN JUNE MEETING OF OECD GROUP OF EXPERTS ON RESTRICTIVE BUSINESS PRACTICES. DRAFT SENT IN 1975 WAS PROBABLY AN EARLIER VERSION OF GERMAN AGREEMENT. (FYI: JUSTICE LATER CONFIRMED THAT DRAFTS SENT TO JAPANESE IN SEPTEMBER 1975 AND FEBRUARY 1976 WERE EARLIER VERSIONS OF THE GERMAN AGREEMENT, BUT WHEN DRAFT WAS REPRODUCED BY LEXATRON, JAPAN WAS SUBSTITUTED FOR FRG.)

4. IKEDA SAID HE WAS PLEASED THAT SITUATION HAD BEEN CLARIFIED. HE STATED THAT DEPT COULD CONSIDER HIS APPROACH AS DEMONSTRATION OF GOJ INTEREST IN BEGINNING PRELIMINARY DISCUSSIONS ON A BILATERAL AGREEMENT THROUGH DIPLOMATIC CHANNELS AND ASKED FOR USG RESPONSE. PRIOR DIRECT APPROACHES TO FAIR TRADE COMMISSION WOULD BE REGARDED BY GOJ AS PRIVATE COMMUNICATIONS.

5. DEPARTMENT OFFICERS NOTED POSITIVE RESPONSE OF GOJ AND ASSURED JAPANESE REPRESENTATIVES THAT FUTURE DISCUSSIONS WOULD BE PLACED IN DIPLOMATIC CHANNELS.

6. DEPARTMENT WILL SHORTLY SEND DIPLOMATIC NOTE INDICATING ITS INTEREST IN BEGINNING FORMAL TALKS ON A BILATERAL ANTITRUST AGREEMENT. KISSINGER

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